

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

WISE GUYS I and WISE GUYS II,

Plaintiffs,

v.

META PLATFORMS, INC.,

Defendant.

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CASE NO. _____

**COMPLAINT FOR
FIRST AMENDMENT
VIEWPOINT DISCRIMINATION AND
VIOLATIONS OF TEXAS HB 20**

JURY DEMAND

COMPLAINT

TO THE HONORABLE COURT:

Plaintiffs, Wise Guys I and Wise Guys II, private groups on the social media platform informally known as Facebook, complaining of Defendant, Meta Platforms, Inc., f/k/a Facebook, Inc., allege as follows.

NATURE OF THE CASE

1. This is a civil action seeking damages and injunctive relief for First Amendment viewpoint discrimination and for violations of Texas House Bill 20 (“**HB 20**”). As discussed below, Defendant Meta has engaged in First Amendment viewpoint discrimination against Plaintiff Wise Guys. As further explained below, Defendant Meta has violated HB 20 by censoring and blocking the content of the Posts of members of Wise Guys, and by de-platforming Wise Guys I.

JURISDICTION AND VENUE

2. ***Jurisdiction.*** This Honorable Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1338(a), as this action involves claims brought under federal law,

the United States Copyright Act, 17 U.S.C. §§ 101 et seq. This Court has personal jurisdiction over Defendant as it may be found to do business in the State of Texas.

3. **Venue.** Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(c) and 1400(a) as Defendant is subject to personal jurisdiction in this judicial district.

THE PARTIES

4. Plaintiffs, Wise Guys I (“**Wise Guys I**”) and Wise Guys II (“**Wise Guys II**”), (collectively, “**Wise Guys**”) are private groups consisting of Facebook users located throughout the United States, including the State of Texas, who enjoy sharing their opinions regarding national and world events.

5. Defendant, Meta Platforms, Inc. (“**Meta**”) f/k/a Facebook, Inc., is a Delaware Corporation with its principal place of business at 1601 Willow Road, Menlo Park, California 94025.

FACTUAL and PROCEDURAL BACKGROUND

Meta Is a Social Media Platform

6. Meta is a social media platform with an Internet website which is open to the public. Meta allows users to create an account and enables users to communicate with other users for the primary purpose of posting information, comments, messages, or images. As a social media platform, Meta has more than 50 million monthly active users.

Texas Law HB 20 Enacted – Fifth Circuit Holding

7. On or about September 9, 2021, the State of Texas enacted HB 20, a Texas statute which regulates large social media platforms. The law regulates social media platforms with more than 50 million active users, including Facebook, Twitter, and YouTube. Portions of HB 20 are codified at Chapter 120, Social Media Platforms, of the Texas Business & Commerce Code and

Chapter 143A, Discourse on Social Media Platforms, of the Texas Civil Practice & Remedies Code.

Section 7 of HB 20 addresses users' posts as follows:

A social media platform may not censor a user, a user's expression, or a user's ability to receive the expression of another person based on:

- (1) the viewpoint of another person;
- (2) the viewpoint represented in the user's expression or another person's expression; or
- (3) a user's geographic location in this state or any part of this state.

If a social media platform violates Section 7 of HB 20 with respect to a user, that user may sue for declaratory and injunctive relief and may recover costs and attorney's fees if successful.

8. Following a lawsuit brought by NetChoice, L.L.C., the United States District Court for the Western District of Texas issued a preliminary injunction, holding that Section 7 of HB 20 was facially unconstitutional. On September 16, 2022, the United States Court of Appeals for the Fifth Circuit vacated the preliminary injunction issued by the District Court and remanded the case for further proceedings.

Meta Impermissibly Censored and De-Platformed Wise Guys I

9. On or about October 2016, the original users established Wise Guys I on Meta. At all times relevant, the users of Wise Guys I resided in or shared and received expression in the State of Texas. During the time Wise Guys I was on Meta, users' posts on Facebook were routinely censored, i.e., had their Posts and accounts blocked, banned, restricted, and removed. Many of the users accounts which were censored by Facebook addressed issues relevant to the government response to COVID-19. On or about October 7, 2022, Meta informed Wise Guys I that its account was de-platformed from Meta as a result of Posts by users which Meta deemed violated its "community standards."

Meta Impermissibly Censored and Threatened to De-Platform Wise Guys II

10. On or about October 11, 2022, following the de-platforming of Wise Guys I, the original users established Wise Guys II on Meta. At all times relevant, the users of Wise Guys II resided in and shared or received expression in the State of Texas. During the time Wise Guys II was on Meta, users' posts on Facebook were routinely censored, i.e., blocked, banned, restricted, and removed. Further, Meta has repeatedly threatened to de-platform Wise Guys II.

Viewpoint Discrimination, the First Amendment, and Meta As a Limited Public Forum

11. Viewpoint discrimination relates to the First Amendment to the United States Constitution. If speech is treated differently by a governmental entity based on the viewpoint it expresses, that is considered viewpoint discrimination. The government may never prohibit speech simply on account of its viewpoint.

12. As a social media platform, Meta has been used by the federal government to censor users' posts which disagree with the Biden Administration's position on matters of national policy, i.e., the Biden Administration has engaged in viewpoint discrimination. With regard to Wise Guys, Meta has been used by the Biden Administration to censor users' Posts which do not agree with the federal government's position on a variety of matters regarding national policy.

13. By way of example, on or about July 15, 2021, the Biden Administration, through its Press Secretary, Jen Psaki, admitted that it was identifying "problematic" posts for Facebook to censor because the posts contained "misinformation" about COVID-19. Jen Psaki disclosed the government's role in policing social media platforms after the Surgeon General called on social media to purge, i.e., censor, problematic posts. On or about July 15, 2021, the Biden Administration, through its Press Secretary stated as follows: "We are in regular touch with the social media

platforms and those engagements typically happen through members of our senior staff and also members of our COVID-19 team – given as Dr. Murthy [the Surgeon General] conveyed, this is a big issue, of misinformation, specifically on the pandemic. . . We are flagging problematic posts for Facebook that spread disinformation”

14. On or about July 29, 2020, and on March 25, 2021, as well as on other occasions, in his testimony before Congress, Meta President Mark Zuckerberg admitted that Meta had agreed to censor speech on Facebook which did not agree with the Biden Administration’s position on COVID-19. Zuckerberg stated that Facebook had removed more than “12 million posts” about COVID-19 and vaccines at the request of the Biden Administration, as Facebook expanded its list of banned posts. Meta also stated that “95 percent of the time” it places warnings on posts its fact-checkers deem false.

FIRST CLAIM
DECLARATORY RELIEF – HB 20

15. Paragraphs 1 through 14 of this Complaint are incorporated by reference as if fully alleged herein.

16. Wise Guys is entitled to a declaration pursuant to the Texas Civil Practice & Remedies Code, Chapter 143A, that Meta impermissibly censored users, users’ expressions, and users’ ability to receive the expressions of other members of Wise Guys, based on (1) the viewpoints of users or another person; (2) the viewpoint represented in the user’s expression or another person’s expression; and (3) the user’s geographic location in the state of Texas. Specifically, Meta censored Wise Guys by blocking, removing, and de-platforming Wise Guys I.

SECOND CLAIM
FIRST AMENDMENT - VIEWPOINT DISCRIMINATION

17. Paragraphs 1 through 16 of this Complaint are incorporated by reference as if fully alleged herein.

18. Meta, as a limited public forum, has engaged in viewpoint discrimination against the Wise Guys. Under the First Amendment, viewpoint discrimination is prohibited in traditional, designated, and limited public fora. When Meta blocked and removed the Posts of users of Wise Guys, it violated the First Amendment prohibition against viewpoint discrimination. When Meta de-platformed Wise Guys I because of the content of Posts of the users of Wise Guys I, it violated the First Amendment prohibition against viewpoint discrimination.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully pray that this Honorable Court enters judgment in favor of Plaintiffs by:

A. Declaring that Plaintiffs are entitled to declaratory relief under Chapter 120, Social Media Platforms, of the Texas Business and Commerce Code and under Chapter 143A, Discourse on Social Media Platforms, of the Texas Civil Practice & Remedies Code, including costs and reasonable and necessary attorney's fees.

B. Declaring that Plaintiffs are entitled to injunctive relief pursuant to HB 20.

C. Declaring that Plaintiffs are entitled to damages for the viewpoint discrimination of the Meta in censoring Plaintiffs' posts on Wise Guys.

D. Awarding all other general and equitable relief as this Court deems appropriate.

Respectfully submitted,

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DEMAND FOR JURY TRIAL

Plaintiffs, Wise Guys I and Wise Guys II hereby demand a jury trial on all issues properly tried to a jury.

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